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10
11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA
13 SAN JOSE DIVISION

14 **LARRY DEAN PADILLA,**

15 Plaintiff,

16 v.

17 **M. S. EVANS,**

18 Defendants.
19

CASE NO. C 06-1725 JF

**DECLARATION SCOTT
FEUDALE IN SUPPORT OF
DEFENDANT'S MOTION TO
MOTION FOR SUMMARY
JUDGMENT**

20 I, Scott Feudale, declare:

21 1. I am a Deputy Attorney General in the California Attorney General's Office, counsel of
22 record for Defendant Evans (Defendant) in this matter. I am competent to testify to the matter in
23 this declaration, and if called upon to do so, I would and could so testify. I submit this
24 declaration in support of Defendant's Motion for Summary Judgment.

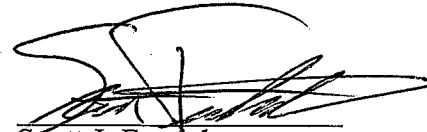
25 2. Attached as Exhibit A is the Declaration of the Custodian of Records, dated April 21,
26 2008, authenticating Exhibits B and C.

27 3. Attached as Exhibit B is a true and correct copy of Plaintiff's Abstract of Judgment.

28 4. Attached as Exhibit C is a true and correct copy of Plaintiff's chronological movement

1 history while he has been incarcerated within the California Department of Corrections and
2 Rehabilitation.

3
4 I declare under penalty of perjury that the foregoing is true and correct. Executed at San
5 Francisco, California, on May 1, 2008



Scott J. Feudale
Deputy Attorney General

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9 40243767.wpd
SF2006200423

EXHIBIT A

DECLARATION OF CUSTODIAN OF RECORDS

I, Araceli Esparza declare as follows:

I am a Staff Service Analyst employed by the California Department of Corrections and Rehabilitation at Salinas Valley State Prison, Soledad, California.

On July 14, 2006, at the request of Scott Feudale, Deputy Attorney General, from the Office of the Attorney General, a copy of the Abstract of Judgment and Movement Print Out along with other requested documents of Inmate Padilla's (P05966) Central file, were sent via U.S. mail to Mr. Feudale on July 18, 2006, in care of Leticia Ramirez, Legal Analyst.

I declare under penalty of perjury that I am competent to testify as a witness, that the foregoing is true and correct and based on my personal knowledge except for those statements based on information and belief, and as to those statements I believe them to be true, and that if called as a witness, I would so testify.

Executed on April 21, 2008, at Soledad, California.

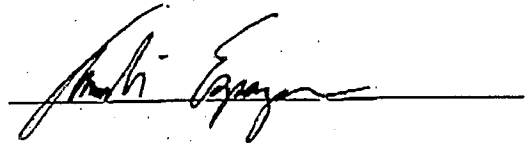


EXHIBIT B

ABSTRACT OF JUDGMENT - PRISON COMMITMENT
INDETERMINATE SENTENCE

FORM CR 292

☒ SUPERIOR
☐ MUNICIPAL
☐ JUSTICE

COURT OF CALIFORNIA, COUNTY OF AlamedaBRANCH OR JUDICIAL DISTRICT: Hayward

COURT (I.D.)

**ENDORSED
FILED**
ALAMEDA COUNTY

JUL 10 1998

RONALD G. OVERHOLT, Exec. Off./Clerk

By S. TAYLOR

PEOPLE OF THE STATE OF CALIFORNIA, versus

DEFENDANT: Larry Dean Padilla☒ PRESENTH22082

- A

AKA: Lawrence Dean PadillaAKU 146☐ NOT PRESENT

- B

COMMITMENT TO STATE PRISON

AMENDED

- C

ABSTRACT OF JUDGMENT

ABSTRACT ☐

- D

DATE OF HEARING (MO) (DAY) (YR)

DEPT. NO.

JUDGE

CLERK

REPORTER

Dianne Dorn

COUNSEL FOR PEOPLE

Blair Thomas, DDA

COUNSEL FOR DEFENDANT

Kim Kupferer, APDSharon Taylor

PROBATION NO. OR PROBATION OFFICER

N/A

1. DEFENDANT WAS CONVICTED OF THE COMMISSION OF THE FOLLOWING FELONIES:

☒ ADDITIONAL COUNTS ARE LISTED ON ATTACHMENT one

(NUMBER OF PAGES)

COUNTED ON ATTACHMENT SUB-				(NUMBER OF PAGES)		DATE OF CONVICTION			CONVICTED BY				CONCURRENT	CONSECUTIVE	654 STAY
COUNT	CODE	SECTION NUMBER	CRIME		YEAR CRIME COMMITTED	MO	DAY	YEAR	JURY TRIAL	COURT TRIAL	PLEA				
1	PC	187**	MURDER 2nd degree		95	03	12	93	X					X	
FINANCMENTS charged and found true TIED TO SPECIFIC COUNTS (mainly in the S 12022 series) including WE1000															

2. ENHANCEMENTS charged and found true **TIED TO SPECIFIC COUNTS** (mainly in the § 12022-series) including WEAPONS, INJURY, LARGE AMOUNTS OF CONTROLLED SUBSTANCES, BAIL STATUS, ETC.: For each count list enhancements horizontally. Enter time imposed for each or "S" for stayed or stricken. DO NOT LIST enhancements charged but not found true or stricken under § 1385. Add up time for enhancements on each line and enter line total in right-hand column.

Count	Enhancement	Yrs. or "S"	Enhancement	Yrs. or "S"	Enhancement	Yrs. or "S"	Enhancement	Yrs. or "S"	Enhancement	Yrs. or "S"	Total
1	12022.5 PC	4									4
											0

3. ENHANCEMENTS charged and found true **FOR PRIOR CONVICTIONS OR PRIOR PRISON TERMS** (mainly § 667-series) and OTHER: List all enhancements based on prior convictions or prior prison terms charged and found true. If 2 or more under the same section, repeat it for each enhancement (e.g., if 2 non-violent prior prison terms under § 667.5(b), list § 667.5(b) 2 times). Enter time imposed for each or "S" for stayed or stricken. DO NOT LIST enhancements charged but not found true or stricken under § 1385. Add time for these enhancements and enter total in right-hand column. Also enter here any other enhancement not provided for in space 2.

Enhancement	Yrs. or "S"	Enhancement	Yrs. or "S"	Enhancement	Yrs. or "S"	Enhancement	Yrs. or "S"	Enhancement	Yrs. or "S"	Total
667(a) PC	5	667(a) PC	5	667.5(b) PC	1					11
										0

4. Defendant was sentenced to State Prison for an indeterminate term:

A. ☐ For LIFE WITHOUT THE POSSIBILITY OF PAROLE on countsB. ☐ For LIFE WITH POSSIBILITY OF PAROLE on countsE. ☐ For other term prescribed by law on countsC. ☐ For 15 years to life, WITH POSSIBILITY OF PAROLE on countsD. ☒ For 4 1/2 years to life, WITH POSSIBILITY OF PAROLE on counts one

PLUS enhancement time shown above.

(Specify term on separate sheet if necessary.)

☒ Indeterminate sentence shown on this abstract to be served ☒ consecutive to ☐ concurrent with any prior incomplete sentence(s).

Other Orders: (List all consecutive/concurrent sentence relationships, fines, etc. if not shown above)

***Defendant is sentenced pursuant to 667(e) (2) (A) (i) PC

Defendant is ordered to pay \$500.00 Restitution Fund Fine.
Restitution reserved.

(Use an additional page if necessary.)

☒ The Court advised the defendant of all appeal rights in accordance with rule 470, California Rules of Court. (AFTER TRIAL ONLY)

EXECUTION OF SENTENCE IMPOSED:

A. ☒ AT INITIAL SENTENCING HEARINGB. ☐ AT RESENTENCING PURSUANT TO DECISION ON APPEALC. ☐ AFTER REVOCATION OF PROBATIOND. ☐ AT RESENTENCING PURSUANT TO RECALL OF COMMITMENT (PC § 1170(d))E. ☐ OTHER

DATE OF SENTENCE PRONOUNCED (MO) (DAY) (YR)

07/10/98

CREDIT FOR TIME SPENT IN CUSTODY

TOTAL DAYS

1189

INCLUDING:

ACTUAL LOCAL TIME

1033

LOCAL CONDUCT CREDITS

156

STATE INSTITUTIONS

☐ DMH☐ CDD

DEFENDANT IS REMANDED TO THE CUSTODY OF THE SHERIFF TO BE RE-ARRESTED

ABSTRACT OF JUDGMENT – PRISON COMMITMENT SINGLE OR CONCURRENT COUNT FORM

FORM DSL 290.

(Not to be used for Multiple Count Convictions nor Consecutive Sentences)

☒ SUPERIOR
☐ MUNICIPAL
☐ JUSTICE
COURT OF CALIFORNIA, COUNTY OF Alameda

COURT (I.D.)

BRANCH OR JUDICIAL DISTRICT: Hayward
**ENDORSED
FILED**
 ALAMEDA COUNTY

JUL 10 1998

RONALD G. OVERHOLT, Exec. Off./Clerk

By S. TAYLOR

PEOPLE OF THE STATE OF CALIFORNIA versus

DEFENDANT: Larry Dean Padilla☒ PRESENT☐ NOT PRESENTAKA: Lawrence Dean PadillaCOMMITMENT TO STATE PRISON
ABSTRACT OF JUDGMENTAMENDED
ABSTRACT ☐

DATE OF HEARING (MO) (DAY) (YR)

07/10/98

DEPT. NO.

49

JUDGE

Leo Dorado

CLERK

Sharon Taylor

REPORTER

Dianne Dorn

COUNSEL FOR PEOPLE

Blair Thomas, DDA

COUNSEL FOR DEFENDANT

Kim Kupferer, APD

PROBATION NO. OR PROBATION OFFICER

N/A

1. DEFENDANT WAS CONVICTED OF THE COMMISSION OF THE FOLLOWING FELONY (OR ALTERNATE FELONY/MISDEMEANOR):

COUNT	CODE	SECTION NUMBER	CRIME	YEAR CRIME COMMITTED	DATE OF CONVICTION			CONVICTED BY			TERM (LAW)	TIME IMPOSED	
					MO	DAY	YEAR	JURY TRIAL	COURT TRIAL	PLEA		YEARS	MONTH
2	PC	12021	Felon in poss. of firearm		03	12	97	X				25	to 1

2. ENHANCEMENTS charged and found true TIED TO SPECIFIC COUNTS (mainly in the § 12022-series) including WEAPONS, INJURY, LARGE AMOUNTS OF CONTROLLED SUBSTANCES, BAIL STATUS, ETC.:

For each count list enhancements horizontally. Enter time imposed for each or "S" for stayed or stricken. DO NOT LIST enhancements charged but not found true or stricken under § 1385. Add up time for enhancements on each line and enter line total in right-hand column.

Count	Enhancement	Yrs or "S"	Enhancement	Yrs or "S"	Enhancement	Yrs or "S"	Enhancement	Yrs or "S"	Enhancement	Yrs or "S"	Total

3. ENHANCEMENTS charged and found true FOR PRIOR CONVICTIONS OR PRIOR PRISON TERMS (mainly § 667-series) and OTHER.

List all enhancements based on prior convictions or prior prison terms charged and found true. If 2 or more under the same section, repeat it for each enhancement (e.g., if 2 non-violent prior prison terms under § 667.5(b) list § 667.5(b) 2 times). Enter time imposed for each or "S" for stayed or stricken. DO NOT LIST enhancements charged but not found true or stricken under § 1385. Add time for these enhancements and enter total in right-hand column. Also enter here any other enhancement not provided for in space 2.

Enhancement	Yrs or "S"	Enhancement	Yrs or "S"	Enhancement	Yrs or "S"	Enhancement	Yrs or "S"	Enhancement	Yrs or "S"	Total

4. OTHER ORDERS:

***Defendant is sentenced pursuant to 667(e) (2) (A) (ii) PC

5. TIME STAYED § 1170.1(g) (DOUBLE BASE LIMIT):

6. TOTAL TERM IMPOSED:

60 years to life

7. ☐ THIS SENTENCE IS TO RUN CONCURRENT WITH ANY PRIOR UNCOMPLETED SENTENCE(S):

8. EXECUTION OF SENTENCE IMPOSED:

A. ☒ AT INITIAL SENTENCING HEARINGB. ☐ AT RESENTENCING PURSUANT TO DECISION ON APPEALC. ☐ AFTER REVOCATION OF PROBATIOND. ☐ AT RESENTENCING PURSUANT TO RECALL OF COMMITMENT (PC § 1170(d))E. ☐ OTHER9. DATE OF SENTENCE PRONOUNCED
(MO) (DAY) (YR)

07/10/98

CREDIT FOR
TIME SPENT
IN CUSTODYTOTAL DAYS
1189

INCLUDING:

ACTUAL LOCAL
TIME

1033

LOCAL CONDUCT
CREDITS

156

STATE INSTITUTIONS

☐ DMH☐ CDC

10. DEFENDANT IS REMANDED TO THE CUSTODY OF THE SHERIFF, TO BE DELIVERED:

☒ FORTHWITHINTO THE CUSTODY OF
THE DIRECTOR OF
CORRECTIONS AT THE
RECEPTION-GUIDANCE
CENTER LOCATED AT:☐ CALIF. INSTITUTION FOR
WOMEN – FRONTERA☐ CALIF. MEDICAL
FACILITY – VACAVILLE☐ CALIF. INSTITUTION
FOR MEN – CHINO☐ DEUEL VOC. INST.☐ AFTER 48 HOURS,
EXCLUDING SATURDAYS,
SUNDAYS AND HOLIDAYS☒ SAN QUENTIN☐ OTHER (SPECIFY):

CLERK OF THE COURT

I hereby certify the foregoing to be a correct abstract of the judgment made in this action.

DEPUTY'S SIGNATURE

DATE

July 10, 1998

This form is prescribed under Penal Code § 12145 to satisfy the requirements of § 12143 for determinate sentences under Penal Code § 1170. Attachments may be used but must be referred to in this document.

**ABSTRACT OF JUDGMENT – COMMITMENT
SINGLE OR CONCURRENT COUNT FORM**

(Not to be used for Multiple Count Convictions nor Consecutive Sentences)

FORM DSL 290.1

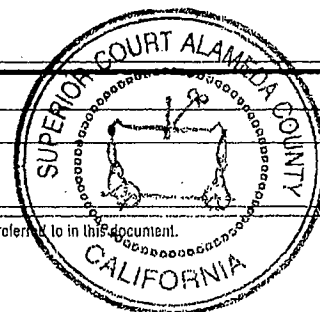


EXHIBIT C

STATE OF CALIFORNIA

CHRONOLOGICAL HISTORY

DEPARTMENT OF CORRECTIONS

CDC 112 (9-83)

Date	Chronological Listings	Initials	Dead Time	Release Date
8.3.98	REC'D SQLC	NR		
8-24-98	P2933.5 REVIEW. FOUND ELIGIBLE TO EARN WORKTIME CREDITS ON CASE # H22082-	RC		
8-24-98	LINE: RESTITUTION ORDERED PER ALAMEDA CO. CASE # H22082- \$ 500.00	RC		
8-24-98	NOTIFICATION REQUIRED PER 3058.6 PC	RC		
8-24-98	INTAKE/TRANSFER AUDIT.	RC	MEPD	12-18-2005
OCT 27 1998	REC'D PELICAN BAY	DV		
5-27-99	Intake audit, p.o. Dec#1 - 7/2011 Initial - 6/2052	BT	MEPD	7-6-2005
6-25-99	BCL 120 Day Log # A99050048 dtd 1/1/99 P/o Dec#1 - 10/2011 Initial - 10/2053	BT	MEPD	11-5-2005
11-10-99	Reviewed for compliance with PC296	BT		
4-21-00	90 WCF CDC115 Log# B99-12-0007 dated 11-30-99 & 90 WCF CDC115 Log# 500-02-0015 dated 2-23-00	RIA	MEPD	4-30-2005
6/2/00	REQUESTED NOTICE OF DEATH, RELEASE, OR ESCAPE FROM DEPARTMENTAL CUSTODY	pr		
9-12-00	Notification requested Sacramento Co. Bureau Fund Support	RC		
5-31-01	Transfer audit. BCL 90 days Log # 500010004 dtd 1/11/00; BCL 90 days Log # 500080045 dtd 7/27/00. Date recalculated Dec#1 10/2012, Initial Hrg. 12/2047	pk	MEPD	11/27/2004
6-1-01	Administrative recalculation of date. Initial Hrg. 9/2053	pk	MEPD	10/27/2005
8-17-01	Rec'd CSP/LAC	JB		
11-1-02	Intake Audit. D2 iff 11-30-99 D-1 iff 2-8-00. LTS: 11-8-09. Dec#110 11-2012 Apch 10-2053.	18	MEPD	11-8-2005

Number

Name

